

ACCESS TO TELEPHONES FOR THE HEARING IMPAIRED

JULY 22 (legislative day, JULY 12), 1982.—Ordered to be printed

Mr. PACKWOOD, from the Committee on Commerce, Science, and Transportation, submitted the following

REPORT

[To accompany S. 2355]

The Committee on Commerce, Science, and Transportation, to which was referred the bill (S. 2355) to amend the Communications Act of 1934 to provide that persons with impaired hearing are ensured reasonable access to telephone service, having considered the same, reports favorably thereon with an amendment and recommends that the bill do pass.

PURPOSE OF BILL

The legislation directs the Federal Communications Commission (FCC) to address the telephone service needs of the hearing impaired by ensuring reasonable access to telephone service to those individuals.

BACKGROUND AND NEEDS

For many years, telephones manufactured by Western Electric, and therefore most of the telephones available in the United States, generated an unintended magnetic field in the handset. Hearing aid manufacturers were able to use this magnetic field to couple with their hearing aids by means of an induction coil in the hearing aid. Rather than picking up audible sound from the telephone receiver, the hearing aid recreates the sound with no background noise and with much better quality. For perhaps 2 million people with specially equipped hearing aids, the use of the magnetic field and the induction coil provides superior hearing and, for some users, the only feasible means of using the telephone. In the 1960's, Western Electric developed a new handset which was cheaper and lighter. At the same time, however, it elimi-

nated the magnetic field and therefore made it difficult or impossible for some people to use those handsets.

Legislation (such as S. 604) has been suggested which would make it illegal to manufacture or sell telephones which do not generate a magnetic field. Substantially identical legislation has been around for several years, and the telephone industry opposes such legislation. They argue that they have made virtually all pay phones compatible with hearing aids (including the retrofitting of pay phones manufactured by GTE and others which were not originally compatible). The industry also provides, upon request and at no extra cost, specially equipped phones which will generate a magnetic field. The industry also argues it would be far cheaper to modify 2 million hearing aids than to modify 250 million phones. While the telephone industry has a variety of other arguments, the most compelling and legitimate objection is that new forms of transmission in the future (using digital technology or fiber optic technology) will require very little electric current and are incompatible with the requirement that telephones have enough electricity to generate a magnetic field. In the face of such objections by the telephone industry, such legislation has never made much progress. Nevertheless, the fact remains that the FCC has never been specifically directed to look at the concerns of the hearing impaired and its only proceeding in this area (begun in 1978) has faded into a bureaucratic void. With this background, the Commerce Committee held hearings on May 6, 1982, to explore the issue and hear views on S. 604 and S. 2355.

LEGISLATIVE HISTORY

S. 2355 was introduced by Senator Cannon (with Senators Goldwater and Riegle) on April 1, 1982. The Subcommittee on Communications held hearings on the bill on May 6, 1982. The committee has considered all views presented in recommending the legislation reported herein.

ESTIMATED COSTS

In accordance with paragraph 11(a) of rule XXVI of the Standing Rules of the Senate and section 403 of the Congressional Budget Act of 1974, the Committee provides the following cost estimate, prepared by the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, D.C., July 20, 1982.

HON. BOB PACKWOOD,
Chairman, Committee on Commerce, Science, and Transportation,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to Section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has reviewed S. 2355, a bill to amend the Communications Act of 1934 to provide that persons with impaired hearing are ensured reasonable access to telephone service, as ordered reported by the Senate Committee on Commerce, Science, and Transportation on July 14, 1982.

S. 2355 would require the Federal Communications Commission (FCC) to develop regulations to ensure reasonable access to telephone service to the hearing impaired. Based on information provided by the FCC, it is estimated that approximately \$200,000 will be required for staff time plus overhead in order to complete the rulemaking within one year after the date of enactment, as required in the bill. In addition, it is likely that a minimum level of monitoring and enforcement will be required for approximately one year after completion of the rulemaking, although the cost of these activities is not expected to be significant.

Should the Committee so desire, we would be pleased to provide additional detail regarding this estimate.

Sincerely,

Alice M. Rivlin,
Director.

REGULATORY IMPACT STATEMENT

In accordance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee provides the following evaluation of the regulatory impact of the legislation:

S. 2355, as reported, requires the FCC to establish regulations to assure the hearing impaired reasonable access to telephone service. The FCC must weigh costs and benefits to all telephone users, and may not discourage the development of new telephone technology. At a minimum, implementation of this legislation would require a rulemaking proceeding (1) to develop and adopt regulations, including technical standards governing the design and manufacture of coin-operated public telephones to ensure that hearing-impaired people would find these telephones to be compatible with their hearing aids, and (2) to determine the information consumers need to understand whether a telephone is compatible with hearing aids, and to require that this information be included on all telephone packaging. The FCC employs staff who possess the engineering and drafting expertise necessary to complete such a rulemaking, and the proceeding can be completed within the 1 year period designated by this legislation. Enforcement of the resulting regulations will be required, including the monitoring of manufacturers and telephone companies.

SECTION-BY-SECTION ANALYSIS

Subsection (a) of S. 2355 directs the FCC to establish such regulations as are necessary to ensure reasonable access to telephone service by persons with impaired hearing. This is the first time that the FCC has been directed to devote its attention to the telephone service needs of persons with hearing impairments. This legislation is not intended to extend the FCC's jurisdiction to the hearing aid industry. The Commission's mandate to ensure reasonable access to telephone service is limited to regulations which govern the manufacture, sale, lease, or interconnection of terminal equipment. In ensuring reasonable access to telephone service, the Commission will have to comply with the provisions of subsection (e), which are intended to prevent the Commission from imposing unnecessary or unjustifiable regulations on any party.

Subsection (b) directs the Commission to require that coin-operated telephones be designed, manufactured and operated so as to "provide internal means for coupling with hearing aids." The Committee notes that current means of providing such coupling utilize hearing aids equipped with inductive receptors that respond to the magnetic signals generated by many telephone handsets. S. 2355, as originally introduced, referred to that specific coupling method. This language has been replaced with the non-specific language quoted above to prevent this legislation from impeding the development of new technology which can provide benefits similar to those currently achieved through inductive means. Subsection (b) further provides that the Commission may require other telephones frequently used by the public or provided for emergency use be similarly designed, manufactured and operated. By "other telephones frequently used by the public," the Committee intends to describe telephones such as those in hospital rooms. "Phones provided for emergency use" would include telephones such as those installed in elevators or those provided to report fires. The Committee believes that the Congress should delegate to the Commission the task of delineating the exact scope of these phrases. The Committee strongly encourages the Commission to exercise its discretion in this area and implement its authority through appropriate rulemaking procedures.

Nothing in subsection (b) should be construed as limiting subsection (a).

Subsection (c) states that the Commission may establish such technical standards as are required in order to ensure compatibility between telephones and hearing aids. The Committee notes that the hearing aid industry and the telephone industry have made substantial progress towards setting such standards. The Committee hopes that the two industries will develop satisfactory standards and that it will not be necessary for the Commission to formulate such standards. This subsection, however, gives the Commission the authority to set such standards in the absence of industry agreement. The Committee intends that any standards established by the Commission, or any standards developed by the industry and adopted by the Commission, be exclusive standards; that the role of setting or approving standards be solely under the jurisdiction of the Commission; and that States and their political subdivisions be preempted from establishing such technical standards. The Committee believes that such standards must be uniform nationally. With the exception of this subsection, nothing else in this legislation is intended to change the division of jurisdictional responsibility any way nor to restrict the rights of States.

Subsection (d) directs the Commission to establish such requirements for the labeling of packaging material as are needed to provide adequate information to consumers about the compatibility of telephones and hearing aids. As originally introduced, S. 2355 would have directed the Commission to establish such requirements for both packaging materials and equipment. As a result of the Committee's hearings on this bill, the Committee is convinced that it is not necessary to label equipment itself. Telephone equipment is now assembled with modular components, and the only effective location for a permanent label would be the telephone handset. Because such telephone equipment is often refurbished and reassembled with new components, however, a permanent label attached to the outer shell of the handset

might be inaccurate or misleading after refurbishment. The Committee concludes that packaging materials and other materials supplied at the time of purchase will provide adequate and accurate information to consumers.

Subsection (e) directs the Commission to specifically consider the costs and benefits to all telephone users, including persons with and without hearing impairments, in any rulemaking to implement the section. It further directs the Commission to ensure that regulations adopted to implement this section encourage the use of currently available technology and do not discourage the development of new technology.

Subsection (f) directs the Commission to complete rulemakings required by this legislation within one year of the date of enactment. The Commission is further directed to periodically review such rules and regulations to determine whether reasonable access is provided without imposing undue costs or discouraging the development of new technology. Except for coin-operated public telephones and telephones provided for emergency use, the Commission is prohibited from requiring the retrofitting of existing equipment.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new material is printed in *italic*, existing law in which no change is proposed is shown in roman) :

COMMUNICATIONS ACT OF 1934

New section 225 of that Act.

TELEPHONE SERVICE TO PERSONS WITH IMPAIRED HEARING

SEC. 225. (a) The Commission shall establish such regulations as are necessary to ensure reasonable access to telephone service by persons with impaired hearing.

(b) In ensuring such access, the Commission shall require that coin-operated public telephones be designed, manufactured, and operated so as to provide internal means for coupling with hearing aids. The Commission may also require that other telephones frequently used by the public or provided for emergency use be similarly designed, manufactured, and operated.

(c) The Commission may establish such technical standards as are required in order to ensure compatibility between telephones and hearing aids.

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(e) *In any rulemaking to implement the provisions of this section, the Commission shall specifically consider the costs and benefits to all telephone users, including persons with and without hearing impairments. The Commission shall ensure that regulations adopted to implement this section encourage the use of currently available technology and do not discourage or impair the development of new technology.*

(f) *The Commission shall complete rulemaking actions required by this section and issue such rules and regulations resulting therefrom within one year after the date of enactment of this section of the Act. Thereafter the Commission shall periodically review such rules and regulations. Except for coin-operated public telephones and telephones provided for emergency use, the Commission may not require the retrofitting of equipment to achieve the purposes of this section.*



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(d) The Commission shall establish such requirements for the labeling of packaging materials for equipment as are needed to provide adequate information to consumers on the compatibility between telephones and hearing aids.

(e) In any rulemaking to implement the provisions of this section, the Commission shall specifically consider the costs and benefits to all telephone users, including persons with and without hearing impairments. The Commission shall ensure that regulations adopted to implement this section encourage the use of currently available technology and do not discourage or impair the development of new technology.

(f) The Commission shall complete rulemaking actions required by this section and issue such rules and regulations resulting therefrom within one year after the date of enactment of this section of the Act. Thereafter the Commission shall periodically review such rules and regulations. Except for coin-operated public telephones and telephones provided for emergency use, the Commission may not require the retrofitting of equipment to achieve the purposes of this section.

